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OFFICE OF PETITIONS

In re Application of
Maeda
Application No. 09/750,116
Filed: Dec. 29, 2000

: DECISION REGARDING PTA

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 35 U.S.C. 154(b)(0)" filed on September 26, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of 949 days to a determination of 1208 days.

Applicants' application for Patent Term Adjustment is **GRANTED to the extent herein indicated**. The Office will *adjust the PAIR calculation* at the time of the issuance of the patent to reflect a determination of days. The Office will adjust the PTA calculation reflected in PAIR.

Applicants assert that the Office improperly reduced applicant for a submission on September 20, 2002 that was in response to the mailing of the non-final rejection that occurred on November 29, 2001. Applicants assert that the response was actually filed on February 27, 2002. Accordingly, applicants assert that they did not fail to engage in any unreasonable delays in issuing the patent as it relates to the submission on Feb. 27, 2002. Applicants concede that they did delay on one occasion by a period of 27 days. Applicants assert that the proper amount of PTA at the time of the mailing of the notice of allowance is 1208 days.

Patentees' arguments are persuasive to the extent herein. The Office agrees that the reduction of 204 days is in error. The Office finds that it did err in entering the date of response to the November 29, 2001 non-final rejection as September 20, 2002. The correct date is February 27, 2002 as asserted by applicants. Accordingly, because February 27, 2002 is the proper reply date then the Office did meet the requirement of 37 CFR 1.702(a)(2) because the Office did not reply to the February 27, 2002 response until December 2, 2002, a one hundred and sixty day delay. The Office notes further that the 1075 day positive period is also in error. The Office notes that the Office responded to applicants reply of 3/31/03 on June 20, 2003 by suspending the application pending interference review. The Office further notes that an interference was declared on April 1, 2005 and an interference decision was mailed on July 15, 2005, a one hundred and five (105) day delay under 37 CFR 1.703(c)(1)(2). In addition, the Office failed to meet the requirement of 37 CFR 1.702(a)(3) by a period of two hundred and seventy-three (273)

days.¹ Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is five hundred and eleven (511) days. (160+ 105+ 273-27=511).

After the mailing of this decision, the Office will forward the file to the Office of Patent Publications for a prompt issuance of the patent.

The Office further notes that any further delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) as well as any reduction pursuant to 37 CFR 1.704(c)(10) will be assessed at the time of the issuance of the patent and will be reflected in the PTA determination that is reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance.

The applicants have submitted the \$200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

Any questions concerning this letter should be directed to Cliff Congo, Petitions Attorney at, at 571-272-3207.

Kery Fries
Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted Pair Calculation

¹The delay began on November 16, 2005, day after four months from Board decision and ended on the mailing of the notice of allowance (7/10/2006) .

Day : Monday
Date: 1/22/2007

Time: 15:02:58

PALM INTRANET

PTA Calculations for Application: <u>09/750116</u>			
Application Filing Date:	12/29/2000	PTO Delay (PTO):	1180
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	231
Post-Issue Petitions:	0	Total PTA (days):	511
PTO Delay Adjustment:	-438		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
49	01/22/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		438	
38	07/10/2006	MAIL NOTICE OF ALLOWANCE	1075		17
37	06/27/2006	ISSUE REVISION COMPLETED			
36	06/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	06/23/2006	NOTICE OF ALLOWABILITY			
33	07/15/2005	MAIL INTERFERENCE DECISION - FAVORABLE			
32	07/15/2005	INTERFERENCE DECISION ON PRIORITY - FAVORABLE	105		31
31	04/01/2005	DECLARATION OF INTERFERENCE			
30	06/09/2005	FILE MARKED FOUND			
29	02/24/2005	MISCELLANEOUS INCOMING LETTER			
28	05/04/2005	FILE MARKED LOST			
27	03/24/2005	FILE MARKED FOUND			
26	03/08/2005	FILE MARKED LOST			
25	09/17/2004	CORRESPONDENCE ADDRESS CHANGE			
24	01/08/2004	DATE FORWARDED TO EXAMINER			
23	01/08/2004	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
22	06/20/2003	MAIL LETTER OF SUSPENSION			
21	06/19/2003	LETTER OF SUSPENSION - EXAMINER INITIATED			
20	06/16/2003	INTERFERENCE COMMUNICATION: INITIAL MEMO DISPOSAL			
19	06/16/2003	INTERFERENCE COMMUNICATION: INITIAL MEMO DISPOSAL			
18	04/07/2003	DATE FORWARDED TO EXAMINER			

17	03/31/2003	RESPONSE AFTER NON-FINAL ACTION	27	15
16	03/31/2003	REQUEST FOR EXTENSION OF TIME - GRANTED		
15	12/04/2002	MAIL NON-FINAL REJECTION		
14	12/02/2002	NON-FINAL REJECTION		
13	09/20/2002	DATE FORWARDED TO EXAMINER		
12	09/20/2002	RESPONSE AFTER NON-FINAL ACTION	204	8
9	02/27/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		
8	11/29/2001	MAIL NON-FINAL REJECTION		
7	11/19/2001	NON-FINAL REJECTION		
6	12/29/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
5	05/03/2001	CASE DOCKETED TO EXAMINER IN GAU		
4	04/05/2001	APPLICATION DISPATCHED FROM OIPE		
3	02/20/2001	CORRESPONDENCE ADDRESS CHANGE		
2	01/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	12/29/2000	INITIAL EXAM TEAM NN		

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EXPLANATION OF PTA CALCULATION

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